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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**VIA COURIER**

January 28, 1999

Magalie Roman Salas, Esq.  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Suite TWA-325  
Washington, DC 20554

**RE:** *Clarification of the Commission's Rules on Interconnection Between LECs and Paging Carriers, CCB/CPD No. 97-24 ("SWBT clarification request")*

*Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report & Order, CC Docket Nos. 96-98, 95-185 ("interconnection reconsideration order")*

*Formal Complaint of Metrocall against Various LECs, File Nos. E-98-14-18*

*Formal Complaint of USA Mobile Communications, Inc. II against CenturyTel of Ohio, Inc., File No. E-98-38*

*Formal Complaint of Arch Communications Group, Inc. against U S WEST Communications, Inc., File No. E-99-05*

*Formal Complaint of Arch Communications Group, Inc. against BellSouth Telecommunications, Inc., File No. E-99-06*

**Notice of Written *Ex Parte* Presentation**

Dear Ms. Salas:

I have enclosed a copy of a written *ex parte* presentation submitted today by the Personal Communications Industry Association to Mr. Larry Strickling, Chief, Common Carrier Bureau. Copies of this presentation were also issued to each of the FCC staff listed at the conclusion of

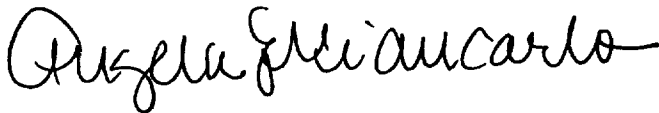
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the presentation. The presentation discusses issues related to the above-referenced proceedings.

Pursuant to §1.1206(b) of the Commission's rules, two copies of this letter for each of the above-referenced dockets are hereby filed with the Secretary's office.

Kindly refer questions in connection with this matter to me at 703-739-0300.

Respectfully submitted,

A handwritten signature in black ink, reading "Angela E. Giancarlo". The signature is written in a cursive, flowing style with a large initial 'A' and a long, sweeping underline.

Angela E. Giancarlo, Esq.  
Director, Government Relations



January 28, 1999

**VIA COURIER**

Mr. Larry Strickling  
Chief  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, NW  
Fifth Floor  
Washington, DC 20554

**RE:** *Clarification of the Commission's Rules on Interconnection Between LECs and Paging Carriers, CCB/CPD 97-24 ("SWBT Clarification Proceeding")*

*Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report and Order, CC Docket Nos. 96-98, 95-185 ("Interconnection Reconsideration Proceeding")*

*Formal Complaints of Metrocall, Inc. against Various LECs, File Nos. E-98-14-18*

*Formal Complaint of USA Mobile Communications, Inc. II against CenturyTel of Ohio, Inc., File No. E-98-38.*

*Formal Complaint of Arch Communications Group, Inc. against U S WEST Communications, Inc., File No. E-99-05*

*Formal Complaint of Arch Communications Group, Inc. against BellSouth Telecommunications, Inc., File No. E-99-06*

Dear Mr. Strickling:

The Personal Communications Industry Association ("PCIA"), on behalf of its paging carrier members, is submitting this letter to bring to the FCC's attention certain specific aspects of a recent Commission decision that are germane to the Commission's ongoing deliberations in the above-referenced proceedings.

By way of background, the SWBT Clarification Proceeding originated with a letter from four paging companies,<sup>1</sup> which resulted in a response from the Chief of the Common Carrier Bureau ("CCB") clarifying the FCC's LEC/paging interconnection rules.<sup>2</sup> As a result, SWBT requested clarification of that CCB letter and several parties, including incumbent LECs, filed comments. The CCB issued a directive responding to the SWBT request.<sup>3</sup> Ameritech, SWBT and US WEST each filed Applications for Review of the letter from Mr. Metzger, and US WEST also sought a stay of the effectiveness of the letter. Those applications and the stay request have been opposed and remain pending with the FCC.

In the meantime, on December 9, 1998, the full Commission released its *Memorandum Opinion & Order in AT&T, et al. v. Bell Atlantic, et al. (the "MO&O")*.<sup>4</sup> The case involved a series of formal complaints alleging that certain LEC defendants had unlawfully assessed carrier common line charges for certain interstate calls. The *MO&O* also addressed certain issues that are relevant to the above-referenced proceedings, in particular in the *SWBT Clarification Proceeding*. Specifically, at paragraphs 57 to 61 of the *MO&O*, the FCC addressed the question of whether "radio common

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<sup>1</sup>CCB/CPD Docket No. 97-24.

<sup>2</sup>Letter from Ms. Regina Keeney, Chief, CCB, to Ms. Cathleen A. Massey, et. al., dated March 3, 1997.

<sup>3</sup>Letter from A. Richard Metzger, Jr., Chief, CCB, to Mr. Keith Davis, et. al., dated December 30, 1997.

<sup>4</sup>FCC 98-321 (rel. Dec. 9, 1998).

carrier" paging companies are "end users" or "carriers." In resolving this issue, the FCC reaffirmed previous holdings that RCC paging companies are to be treated as co-carriers, **not** end users.<sup>5</sup>

This reaffirmation is noteworthy because certain LECs have argued to the Commission in the *SWBT Clarification Proceeding* that the FCC's interconnection rules do not apply to paging carriers because paging carriers are essentially "end users."<sup>6</sup> That argument obviously is contrary to long-standing FCC precedent, as most recently reiterated in the *MO&O*. Moreover, US West, one of the LECs that advanced the position that paging companies should be treated as end users for interconnection purposes in the *SWBT Clarification Proceeding*, conceded in the AT&T complaint proceedings that "paging companies are carriers."<sup>7</sup>

Certain LECs also have argued in the *SWBT Clarification Proceeding* that they are required, or entitled, to continue to assess local transport and facilities charges against paging carriers for LEC-originated traffic so long as the charges appear in effective state tariffs.<sup>8</sup> The AT&T complaint proceedings reveal, however, that the LECs took a different approach with respect to carrier common line ("CCL") charges. Most LECs voluntarily stopped assessing unlawful CCL charges on calls to

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<sup>5</sup>*MO&O* at para. 61.

<sup>6</sup>See, e.g. *Lexington Telephone Company's Comments in Support of Applications for Review* filed February 23, 1998 (equating paging carriers to PBX customers); see also, *Ameritech's Application for Review* filed January 30, 1998, *Application for Review of Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell* filed January 29, 1998, and *Reply Comments of BellSouth on Petition for Stay and Comments on Applications for Review* filed February 17, 1998 (each asserting that paging carriers do not perform carrier functions).

<sup>7</sup>*MO&O* at para. 58, n. 150 (citing US West's briefs in the AT&T complaint proceedings).

<sup>8</sup>See, footnote 6, *supra*.

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paging carriers as soon as it became clear to them that the FCC did not consider the radio paths to the called party or the facilities that connect the wireline carrier to the wireless carrier to be common lines.<sup>9</sup> By doing so, these LECs demonstrated that they have the ability to proceed in the proper manner once the FCC rules that the LECs have no right to assess certain charges against paging carriers; namely, to revise applicable tariffs accordingly.

Applying this lesson to LEC/paging interconnection, it becomes clear that, rather than seeking refuge behind state tariffs, all LECs should — as some have done — amend non-conforming state tariffs to comply with applicable requirements.

We welcome your questions. Please feel free to contact us directly.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Hoggarth".

Robert L. Hoggarth, Esq.  
Senior Vice President

Angela E. Giancarlo, Esq.  
Director

cc: Bob Atkinson  
Jane Jackson  
Edward Krachmer  
Thomas Sugrue  
James Schlichting  
Jeanine Poltronieri  
Tamara Preiss  
Lisa Zaina

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<sup>9</sup>MO&O at para. 58. In the case of US West, it agreed to "conform its tariffs properly" to the FCC orders regarding CCL charges.